



# OFFICIAL NOTICE OF PUBLIC MEETING

## THE STATE MINING AND GEOLOGY BOARD

**Conducted a Regular Business Meeting on:**

**Thursday, February 14, 2019**

**9:30 a.m.**

**California State Capitol  
Assembly Hearing Room #447  
Sacramento, California 95814**

For questions or comments regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or via email at [smgb@conservation.ca.gov](mailto:smgb@conservation.ca.gov). This Notice, the agenda, and all associated staff reports can be accessed at the SMGB's web site at: <http://www.consrv.ca.gov/smgb/>.



## **PUBLIC MEETING AGENDA**

### **1. Call to Order (Potter)**

The meeting was called to order at 9:35 a.m. by Chair Potter.

### **2. Pledge of Allegiance**

### **3. Roll Call and Declaration of a Quorum**

The roll was called with Members Garza, Kenline, Landregan, Potter, Sheingold, and Zafir present and Members Anderson, Kappmeyer, and Noushkam absent and a quorum was declared.

### **4. Review of the Agenda (Potter)**

### **5. Department Reports**

- Director of Conservation's Report

Chief Deputy Director, Jason Marshall, reported on the following:

- Recruitment continues for State Geologist candidates.
- Thank you to Bill Short for serving as Acting State Geologist for three months; Tim McCrink will fill the Acting State Geologist position for the next three months.
- Thank you to Board member Kenline for his strong support of SMARA and for getting other government agencies to recognize the importance of SMARA.
- In reference to agenda item 13G, Mr. Marshall discussed the Department's shift from Strategic Planning to Work Planning and explained how that may benefit the Board.

- California Geological Survey Report

Acting State Geologist, Tim McCrink, reported on the following:

- Since the last meeting, CGS has filled four positions, had three retirements, and one promotion.
- Five official Seismic Hazard Zone maps for Contra Costa and San Mateo Counties are expected to be released on April 4; additional information was received from Contra Costa County but won't change the map.
- Preliminary Earthquake Fault Zone maps for Downtown San Diego and Pasadena will be released sometime this spring.

- Division of Mine Reclamation Report

Division Supervisor, Pat Perez, reported on the following:

- Since the last meeting, DMR has hired a new manager, Lynne Taylor, for the Administrative Support Unit; they have also hired a new Environmental Scientist and have posted three vacancies.
- DMR will be losing a veteran manager, Beth Hendrickson, to retirement; they expect to begin interviews for her position next week.
- The mine inspection training program has been revamped based on input from stakeholders and staff; the roadshow begins again on March 20 in Inyo County.

### **6. Chair's Report (Potter)**

Chair Potter reported that she has been coordinating with the DOC on recruitment for the State Geologist, as well as working with the Executive Officer and Governor's Office on appointments.

### **7. Executive Officer's Report (Schmidt)**

Executive Officer, Jeffrey Schmidt, reported on the following:

- We have narrowed down the candidates for the AGPA vacancy; out of 56 applications received, there were 15 potential candidates, and we conducted five interviews. Thank you to April Balestreri of DMR for her participation in the interview process.
- Rulemaking packages #3 and #5 are expected to be ready for the Board at the next meeting.
- He expects to have the inspection training workshop presentation to the Board at a future meeting.

## **8. Senior Engineering Geologist's Report (Arcand)**

Senior Engineering Geologist, Will Arcand, reported on the following:

- The end of 2018 focused on completing inspections; since November, 18 on-site inspections and seven desk inspections were completed. Five inspection reports are available on the FTP site with more to come. The 2019 inspections will begin this summer.
- Five annual FACE reviews have been completed since the last meeting.
- He has been working with DMR staff on the revision of the inspection training program presentation.
- He has also been working with the EO and DOC on the rulemaking packages currently in progress.

Vice Chair Landregan asked how the overall inspection process is going since the SMARA revisions; Mr. Arcand stated that the comfort level is increasing, however, some operators are still struggling with submittal deadlines. He also stated that the process of approving FACES could use adjustment, but overall, it is going well.

## **9. Ex-Parte Communication Disclosure**

There were no Ex-Parte disclosures.

## **10. Public Comment Period**

There were no public comments.

## **11. Consent Items**

All the items appearing under this section will be acted upon by the Board by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chair to remove the item from the Consent Calendar and consider it separately.

- A. Consideration and approval of Minutes of the November 28, 2018 Regular Business Meeting.
- B. Approval of a Revised Financial Assurance Cost Estimate for Dantoni Pit (CA Mine ID #91-58-0011), Eleanor Plant (Operator), Eleanor Plant (Agent), County of Yuba.
- C. Approval of a Revised Financial Assurance Cost Estimate for Lawyer Pit (CA Mine ID #91-09-0010), Archie's Trucking and Backhoe (Operator), Archie Lawyer (Agent), County of El Dorado.

Vice Chair Landregan moved to approve the consent items as presented. Member Zafir seconded and the motion carried with a unanimous roll call vote.

## **12. Rulemaking Action Items**

### 13. Additional Action Items

#### A. Election of Board Vice Chair.

Chair Potter presented an overview of the relevant statute governing the selection of the Vice Chair and thanked Member Landregan for serving.

Member Landregan moved to nominate Member Kenline to be the Vice Chair. Member Zafir seconded and the motion carried with a unanimous roll call vote.

#### B. Consideration and adoption of the *2018 Annual Fee Schedule for Mines*, subject to the Surface Mining and Reclamation Act (PRC Sections 2710 et seq. and 2207).

Will Arcand presented an overview of the process by which the Annual Fees are determined and provided a comparison of the adopted 2017 fee schedule with the proposed 2018 fee schedule.

Member Zafir asked how the total maximum revenue amount of eight million dollars was determined; Mr. Arcand stated that the amount is determined by statute. The previous maximum was four million and the recent legislative changes increased that to the current eight million.

Member Garza asked whether this was the end of the ramp-up in fees; Mr. Arcand stated that yes, per statute, there was a three-year transitional period and after that the only increases will be Cost of Living (COLA) increases.

Member Zafir moved to adopt the proposed 2018 Annual Fee Schedule as discussed and presented. Member Landregan seconded and the motion carried with a unanimous roll call vote.

#### C. Consideration and approval of CGS Special Report 245 Titled "*Mineral Land Classification: Concrete Aggregate in the Greater Sacramento Area Production Consumption Region*". (O'Neal)

Matt O'Neal with CGS presented the classification report and provided an overview of the study areas included. The study area is composed of eight counties and includes all of Sacramento, Sutter, Yolo, and Yuba Counties, as well as parts of El Dorado, Nevada, Placer and Solano Counties. Six former study areas were combined into one large Production-Consumption "Super Region".

Member Landregan inquired whether the report took into consideration the effects of transportation emissions; Vice Chair Kenline stated that he would like to see additions to the statistics pertaining to greenhouse gases. Fred Gius with CGS stated that the report as presented is final, but these issues can be discussed in the future.

Adam Harper with CalCIMA voiced support for the report and stated that his understanding is that the classification report only identified the resources, and the designation report would get into the particulars of land use.

Member Garza moved to accept the classification report as presented. Vice Chair Kenline seconded and the motion carried with a unanimous roll call vote.

#### D. Consideration and approval to delegate authority to the Executive Officer to approve Annual Financial Assurance Cost Estimates pursuant to PRC Sections 2773.4(d) and 2773.4(e), for surface mining operations where the Board serves as the SMARA lead agency.

Will Arcand presented this item and explained that the Board is the only lead agency that approves Financial Assurance Cost Estimates (FACE) as a whole in a public setting. He also clarified that only the Annual FACEs would be affected; any FACE pertaining to a site closure or reclamation would not.

Chair Potter asked how the previous delegation to approve inspection reports has worked out; Mr. Arcand stated that it has made the process more streamlined and efficient and has led to a quicker turnaround of the completed inspection report to the operator.

Member Landregan asked whether other lead agencies provided staff reports to the approving body, and voiced concern about what backup materials would be made available to the Board.

Member Garza moved to delegate authority to the Executive Officer to approve or deny Financial Assurance Cost Estimates except when inspection reports are required to come before the Board. Member Sheingold seconded and the motion carried with Members Garza, Kenline, Sheingold, Zafir, and Potter in favor, and Member Landregan opposed.

E. Consideration and adoption of the Board's standing committees.  
Chair Potter presented the new standing committee assignments.

Member Zafir moved to approve the new committee assignments. Member Landregan seconded and the motion carried with a unanimous roll call vote.

F. Establishment and approval of an ad hoc committee for the recruitment and recommendation to the Board of potential candidates for the State Geologist.  
Chair Potter appointed Member Landregan and Member Zafir to the committee, with the Chair as an ex-officio member.

Member Garza moved to establish an ad hoc committee for the recruitment of State Geologist. Vice Chair Kenline seconded and the motion carried with a unanimous roll call vote.

G. Consideration and approval of the 2018-2019 *Strategic Plan*.

No action was taken at this time.

#### **14. Informational Items**

A. Review changes to annual reporting forms *MRRC-2*, *MRRC-4M*, and *MRRC-4L*.

Informational item only, no action taken.

#### **15. Special Reports and Presentations**

#### **16. Board Committee Reports**

- Geohazards Committee (Chair Zafir)
- Lead Agency Standards Committee (Chair Anderson)
- Minerals Conservation and Reclamation Committee (Chair Kenline)
- Policy and Administration Committee (Chair Landregan)

There were no committee reports.

**16. Executive Session (Closed to the Public)**

The Board will discuss information from its legal counsel on personnel matters and pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.

- A.** To discuss pending litigation to which the Board, or its officials, are a party pursuant to Government Code Section 11126(e)(1):
  - a.** Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC, Real Party in Interest (Sacramento County Superior Court Case No. 34-20108000528; Third District Court of Appeal Case No. C082333)
  - b.** Joe & Yvette Hardesty v. SMGB (Sacramento County Superior Court Case No. 34-2010-80000594; Third District Court of Appeal Case No. C079617)
  - c.** Joe & Yvette Hardesty et al. v. SMGB (Sacramento County Superior Court Case No. 34-2012-80001070)
  - d.** Hardesty et al. v. SMAQMD et al. (United States District Court, Eastern District of California Case No. 2:10-cv-02414-KJM-KJN)
  - e.** Daniel Tankersly v. Will Arcand et al. (United States District Court, Eastern District of California Case No. 2:15-cv-01278-TLN-CMK)
- B.** To discuss potential litigation involving the Board pursuant to Government Code Section 11126(e)(2).

**Re-open Regular Business Session, Announce Results of Executive Session**

Executive Session was held and no action was taken.

**17. Announcements and Future Meetings**

The next meeting will be held on March 14, 2019 in Sacramento and will be committee meetings only. The next regular business meeting will be held on April 11, 2019.

**18. Adjournment**

The meeting was adjourned at 1:30 p.m.

**APPROVED**

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Larry Sheingold, Chair

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Jeffrey Schmidt, Executive Officer